IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Crl.MC.No. 2253 of 2007()

AGAINST THE ORDER IN CC 1580/1999. IN
LP.71/2002 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: ACCUSED

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1. JAWAD, S/O.ABDUL RAZACK, POLAYATHODU,
   KOLLAM.

2. PROPRIETOR, M/S.DHANYA FASHION,
   STATION ROAD, VARKALA.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENTS: COMPLAINANT/STATE

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1. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   KOLLAM EAST POLICE STATION.

3. MOHAMMED ASHRAFF.T., MANAGING DIRECTOR,
   M/S.K.B.GARMENTS, COCHIN COMPLEX,
   MARKET ROAD, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2253 of 2007

Dated this the 13th day of July, 2007

O R D E R

The petitioners face indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. Consequent to non appearance of the petitioners, the case against them has been transferred to the list of Long Pending Cases. The petitioners find warrants of arrest issued by the learned Magistrate chasing them. According to the petitioners, they are innocent. Their absence was not wilful and was on account of reasons beyond their control. They are willing to appear before the learned Magistrate and seek regular bail, but they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioners.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. The warrants of arrest issued by the learned Magistrate against the petitioners shall not be executed till 23.07.2007. Before that date, the petitioners shall appear before the learned Magistrate and seek regular bail.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-